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To: Microsoft ATR
Date: 11/17/01 12:33am
Subject: My comments on the DOJ - Microsoft settlement.

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This settlement after FOUR years, and on the heels of an equally worthless consent decree from a previous 'settlement', which Microsoft totally and completely ignored, is exactly why the US legal system is held in such LOW regard by a large majority of the American People. The DOJ simply does not work for the best interests of the common citizen any more. They behave more like lackeys of big business.

Why?

The DOJ won the court case and Microsoft is convicted as a monopolist.
The DOJ won the appeal and Microsoft's conviction stood.
The original DOJ team is replaced by Bush appointees who immediately snatch defeat from the jaws of victory.

DOJ lawyers defended the settlement stating: "Government lawyers 'carefully weighed' those proposals but ultimately chose other sanctions against Microsoft that they believed would result in the 'most effective and certain relief in the most timely manner.'"

This is patently absurd. "Carefully weighed" suggests that Microsoft's side of the scale was preloaded in its favor. "most effective and certain relief in a timely manner" is a description of the relief that Microsoft recieved from the DOJ, but it is NOT a description of any possible relief the consumer might gain from this settlement. Microsoft's relief is effective, knowing they will not be fined a single penny after stealing Billions from the consumer. They know it is certain, because the DOJ is behaving like the 'fix is in'. They know it is timely because even though XP was quickly launched ahead of schedule in an attempt to snowball the DOJ into more lenient terms, Microsoft received NO terms of significance at all, so their XP launch, the biggest invasion against privacy and the Bill of Rights yet launched, goes ahead unhindered.

The DOJ team goes on to say 'the settlement, if approved by the court, would "eliminate Microsoft's illegal practices, prevent recurrence of the same or similar practices and restore the competitive threat" the company faces from rivals.'

This, too, is patently absurd. There is absolutely NO teeth in this settlement. When Microsoft violates (not if) what faulty "restraints", and I use the term loosely, there is in the agreement, the ONLY punishment is that they have to endure another TWO years of the same ineffectual watchdogging.

Frankly, if you haven't been able to figure it out yet, I am disgusted at the DOJ incompetence. It goes beyond incompetence, it is criminal. Disbarment proceedings would have been undertaken had any of you performed so poorly in the public courts of the land.

Mr Nader gave an excellent analysis of the "settlement" in his letter to the Judge. <http://www.cptech.org>

Although a convicted monopolist Microsoft is given NO meaningful punishment, NO meaningful supervision. NO teeth which could restrain Mr. Gates and Mr. Ballmer from proceeding full steam ahead without changing any tactics. In fact, the settlement, rather than protecting the consumer, legalizes Microsoft's outrageous behavior. Of the three "watch kitten" (dog would be an inappropriate description) one will be selected by Microsoft, and that person will have a say in the selection of one of the other two. So, right from the start, the committee is biased at least 1.5 to 2 out of 3. IF a two out of three vote is required then Microsoft already possesses the ability to BLOCK any unfavorable decisions the committee could make. What brilliant genius on the DOJ team agreed to that? In addition, the three "watch kittens" will be housed on the Microsoft campus, in Microsoft offices, paid by Microsoft, and they will be under a GAG order, essentially preventing them from informing the public about any progress Microsoft is making in abiding by the essentially worthless settlement. What brilliant genius on the DOJ team thought that scheme up, and how did he/she get the rest of the team to sign on? A better question would be "How much did they get paid to sell out the American People, you know, the ones whose interests they are supposed to represent?"

Your "IMPACT" report is pure fabrication. It reminds me of Neville Chamberlain's peace treaty with Hitler.

It became apparent SIX WEEKS before the settlement was announced that Microsoft had advanced notice of what the outcome of the settlement would be, and immediately returned to its Monoplistic, predatory attitudes by modifying its PC OEM licenses to restrict what icons and other software the PC OEM could put on the Desktop along with WinXP. Additionally, Microsoft forbade the PC OEMs from installing any other

OS along with WinXP in a dual boot mode. These requirements are extremely egregious and certainly an example of Microsoft LEVERAGING its monopolistic position even before the settlement was announced.

If Microsoft can be so bold as to embark on this course of behavior even before they supposedly knew what the outcome of the case would be, not one single point of this settlement will deter them for a single second to do even bolder and more outrageous acts.weak

Expect to see their legal teams, by threats of legal action and by shady use of patents and other legal devices, intimidate Open Source programmers, the Linux Kernel team (one of whom, Alan Cox, has already resigned from maintenance of the 2.4 kernel because of fear of the DMCA being applied against him for revealing security fixes in a GPL product for which he is a principal programmer!!!!!!)

For the last ten years software houses and security companies and software researchers have had a consumer favorable policy of rapid reporting of bugs and security holes, along with demonstration code which proves the bugs or holes and which can be used to test the effectiveness of any patches software houses offer. Microsoft is against informing consumers of the threats to their personal and financial information that bugs in their software poses. They would rather such holes are kept secret. This was the standard 15 years ago, and such holes were rarely admitted, and bug patches rarely offered. In fact, anyone who announced bugs was immediately persecuted, both professionally and legally. Eventually, because of the never ending holes, primarily in Microsoft's OS and software, an democratic policy of rapid announcements was instituted. Recently, in response to a virtual flood of trojan horses, email viruses, server security holes found in Microsoft's software, especially the IIS web server engine, the Gartner Group has advised consumers to switch from IIS web servers to Apache web servers. Even though such holes had been known for several years in various Microsoft products, it is only after Gartner Group advised consumers to switch to Apache did Microsoft address the problem. Their solution, announced a couple of days ago, well AFTER the DOJ settlement, would have the computer world return to the bad old days where bugs and holes would be kept secret. Only Microsoft, flexing in new INVIGORATED MONOPOLY POWER would attempt such a wholesale brow beating of the computer industry. I have no doubt that Microsoft has been accompanying the public lashings with private threats of economic penalties for all companies that don't toe their new line.

Jerry Kreps